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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/415,540	10/08/99	HAWKINS	P. PF-0148-2-DI

HM22/1112
[INCYTE PHARMACEUTICALS INC
PATENT DEPT
3174 PORTER DRIVE
PALO ALTO CA 94304]

EXAMINER
SLOBODYANSKY, E

ART UNIT	PAPER NUMBER
1652	

DATE MAILED: 11/12/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/415,540

Applicant(s)
Hawkins et al.

Examiner
Elizabeth Slobodyansky

Group Art Unit
1652



☒ Responsive to communication(s) filed on Oct 8, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 17, and 18 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1, 17, and 18 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

The instant application is a divisional of application 09/134,593, now US Patent 5,981,232.

The preliminary amendments filed concurrently with the application amending the specification to include the reference to the prior application and to correct typographical errors, canceling claims 2-16 has been entered.

Claims 1, 17 and 18 are pending.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1, drawn to a human pyrophosphatase, classified in class 435, subclass 195.
- II. Claims 17-18, drawn to a hybridization method using SEQ ID NO:2, classified in class 435, subclass 6.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are patentably distinct because a DNA molecule of invention II and pyrophosphatase of invention I are different types of chemical compounds and a DNA molecule of invention II is not limited in use to the production of pyrophosphatase of invention I and can be used as a hybridization probe; and pyrophosphatase of

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invention I can be obtained by a materially different method such as by the biochemical purification.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their divergent subject matter, fall into different statutory classes of invention, and are separately classified and searched, restriction for examination purposes as indicated is proper.

A telephone call was made to Dr. Diana Hamlet-Cox on November 10, 1999 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

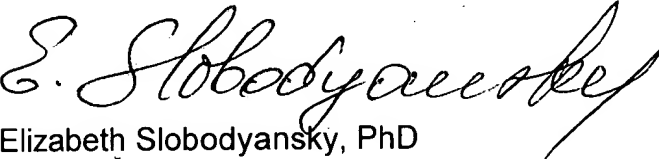
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This application has been filed with formal drawings which have been approved by Draftsman.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Slobodyansky whose telephone number is (703) 306-3222. The examiner can normally be reached Monday through Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy, can be reached at (703) 308-3804. The FAX phone number for Technology Center 1600 is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Center receptionist whose telephone number is (703) 308-0196.


Elizabeth Slobodyansky, PhD

November 10, 1999